

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-865

April 6, 1999

MAINE PUBLIC SERVICE COMPANY
Annual Increase Under Rate
Stabilization Plan

ORDER APPROVING
STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we approve a stipulation that resolves the issues in the Maine Public Service Company (MPS or Company) annual rate change proceeding. As a result of our approval of this Stipulation, as well as our approval of the Stipulation in Maine Public Service Company, Divestiture of Generation Assets, Docket No. 98-584, MPS's rates for this coming rate plan year will not be increased. In addition, our approval of this Stipulation resolves certain issues surrounding the treatment of capacity cost savings from the closure of Maine Yankee under the Company's Rate Stability Plan.

II. BACKGROUND

On November 30, 1995, the Commission issued its Order approving stipulation in Maine Public Service Company, Proposed Increase In Rates, Docket No. 95-052 (Nov. 30, 1995) which established the terms for Maine Public Service Company's Rate Stability Plan (RSP). The RSP is a comprehensive multi-year rate plan that contains, among other provisions, specified annual rate changes, a sharing of earnings outside a certain "dead-band", and a sharing of Maine Yankee net replacement power costs should Maine Yankee be out of service for more than six months.

As part of last year's annual RSP filing, the Company requested a rate increase of 7.59% consisting of the 2.75% increase specified in the RSP, a 2.2% increase for Maine Yankee replacement power costs, and a 2.62% increase for earnings sharing allowed by Maine Public Service Company, Annual Increase In Rates, Under Rate Stabilization Plan, Docket No. 97-830 (January 30, 1998). In that Order we approved a stipulation that resolved the issues raised by the Company's 1997 RSP filing. Under the terms of the stipulation, the Company was authorized to increase its rates as of February 1, 1998, by 3.9%, consisting of the 2.75% increase specified in the RSP along with approximately half of the Maine Yankee replacement power costs sought. The Company was also authorized to raise its rates by 3.1% as of February 1, 1999, consisting of a 2.00% specified increase as well as the remaining portion of the Maine Yankee replacement costs deferred during 1997 (\$523,000). As part of the 1999 price change, 1998 net Maine Yankee replacement power costs would be offset by the savings realized by the restructuring of the Company's Wheelabrator-Sherman (W/S)

purchased power contract, with the remainder of eligible costs, estimated to be \$900,000, to be deferred. MPS was also authorized to defer 50% of the net purchased power costs incurred to replace the Maine Yankee entitlement between October 1, 1998 and February 29, 2000, net of W/S contract savings.

On November 13, 1998, MPS submitted its annual RSP filing for the rate change scheduled to go into effect on February 1, 1999. In its filing, the Company claimed that it was entitled to increase rates by 6.39%, consisting of the 3.1% increase authorized in Docket No. 97-830 and 3.29%, or \$1,646,142, for Maine Yankee replacement power. Rather than implementing these increases on February 1, 1999, the Company requested that the RSP rate changes be delayed on a revenue neutral basis until April 1, 1999, to allow the Commission an opportunity to rule on the Company's proposed sale of its generation assets. If the asset sale was approved, the Company would consider deferring the rate change by accruing the lost revenues as a regulatory asset. The Company also requested that the term of the Rate Stability Plan be extended by one additional month, or until February 29, 2000, to coincide with the scheduled start of retail competition for generation services in Maine. The Company's motion was granted by the Commission on December 15, 1998.

The Commission issued a Notice of Proceedings which provided interested persons with an opportunity to intervene in this matter on November 20, 1998. The Office of the Public Advocate (OPA) filed a timely petition to intervene which was granted without objection.

On March 19, 1999, the Advisory Staff filed a Bench Analysis which provided the Staff's preliminary view of the issues raised by the Company's filing. The Advisory Staff noted that there did not appear to be a dispute concerning the amount of the Company's request for a specified increase, nor was there a dispute about the factual assumptions relied on by the Company in calculating the Maine Yankee replacement energy costs. The sole issue, according to the Bench Analysis, was whether the Company erred in its calculation of Maine Yankee Replacement Power Costs in not accounting for the capacity cost savings associated with Maine Yankee's owner's decision to permanently shut down the plant.

The Advisory Staff stated that it was its preliminary view that in calculating the net Maine Yankee replacement power costs it was necessary to look at the capacity cost savings that were produced by Maine Yankee's owners' decision to permanently shut down the plant in mid-1997. On March 22, 1999, the OPA filed a memorandum which endorsed the Advisory Staff's approach. On that same date, the Company filed a memorandum noting its disagreement with the Advisory Staff's proposal. The Company argued that it did not include Maine Yankee capacity costs, which had increased over test year levels in last year's RSP case when it calculated Maine Yankee replacement costs. It would be unfair, therefore, to look at such costs now when they have decreased. The Company also argued that the provision of the RSP for Maine Yankee replacement power costs was essentially intended as a surrogate for

the fuel clause which only included Maine Yankee's energy costs and not its capacity costs.

The Company and the Advisory Staff's positions are summarized in the table below:

<u>Maine Yankee Replacement</u>	<u>Company Proposal</u>	<u>Staff Proposal</u>	<u>Difference</u>
Energy (MWH)	285,196	285,296	
-Replacement Energy Costs (\$000's)	8,472	8,472	
-M.Y. Capacity Cost in Test Year		(8,472)	
-M.Y. Capacity Cost 10/1/97-9/30/98		6,344	
-FERC Settlement (\$364K/12X9)		(273)	
-Resleeving Amortization		251	
-Net Incremental Power Cost (\$000's)	8,472	6,320	
-50% of Incremental Power Cost (\$000's)	4,236	3,160	1,076
M.Y. Deferral Carrying Charge (\$000's)	232	173	59
Wheelabrator/Sherman Offset (\$000's)	<u>(2,824)</u>	<u>(2,824)</u>	<u>0</u>
Total Maine Yankee Deferral (\$000's)	<u>1,645</u>	<u>510</u>	<u>1,135</u>

III. STIPULATION

On March 26, 1999, we received a Stipulation signed by the Company and the OPA which resolved all issues in this matter. The Stipulation has two separate rate change scenarios: one, if the Company's proposed asset sale is approved by the Commission; the other, if the current proposed asset sale is not approved. In an Order issued April 5, 1999, the Commission approved the Company's proposed asset sale to WPS Power Development, Inc. (WPS-PDI). As we have approved the MPS/WPS-PDI asset sale, the "non-asset sale" scenario provisions of the Stipulation are now moot and will not be discussed here.

Under the "asset sale approved" provisions of the Stipulation, the parties agree that pursuant to the terms of the Commission's Order in Docket No. 97-830 and recognizing the impact of delaying the increase in this case, the Company is entitled to a 3.66% specified rate increase as of April 1, 1999. Rather than actually increasing rates, the parties have agreed that the Company should be allowed to recognize the revenues that this increase would have generated as a deferred asset on the Company's books of account. The parties to the Stipulation also agreed that they would recommend that these deferred revenues be offset by the available value resulting from the WPS-PDI asset sale in Public Utilities Commission, Investigation of Stranded Costs, Transmission and Distribution Utility, Revenue Requirements, and Rate Design of Maine Public Service Company, Docket No. 98-577.

In addition, the Stipulation resolves the dispute concerning Maine Yankee replacement power costs. The Stipulation allows the Company to continue to recognize Maine Yankee replacement power costs on an energy-only basis as it has had in the past. As provided in the Commission's Order in Docket 97-830, these costs are to be offset by the Wheelabrator-Sherman contract restructuring savings. In addition, the Company agrees that it will reduce the amount of the Maine Yankee deferred asset in the amount of \$1,650,000, by expensing \$150,000 per month of Maine Yankee replacement power costs for eleven months beginning April 1, 1999. The parties recommend that the amounts deferred under the Stipulation be recovered by the Company through the application of available value from the asset sale in the Docket 98-577 proceeding.¹

IV. DECISION

We have reviewed the Stipulation and believe that it provides a reasonable resolution of the issues raised in this case by the parties and by our Advisory Staff. We believe that the compromise reached by the parties appropriately balances the interests of the Company's shareholders and ratepayers. The Company's agreement not to increase rates at this time but rather to defer the increase to allow for the recovery through the application of value will provide rate stability as we approach restructuring. More importantly, through the Stipulation's provision to expense \$1,650,000 in otherwise allowable Maine Yankee costs in order to recognize capacity cost savings, the Company's ratepayers will receive a real reduction in regulatory assets otherwise recoverable in rates.

We, therefore, conclude that the Stipulation provides a reasonable resolution of the issues presented in this RSP annual filing case and should be approved. In approving the Stipulation we would note that while the parties have recommended certain methodologies for the application of available value from the asset sale, the actual determination on the application of value will be made in Docket No. 98-577. Our decision here accepting the Stipulation in no way binds those parties in Docket No. 98-577 who are not parties to this matter from taking a position contrary to those agreed to by the Company and the OPA in the Stipulation nor does it bind the Commission to a particular course of action in Docket No. 98-577. Based on the discussions between the parties and the Bench during technical and settlement conferences, and the language of the Stipulation itself, we believe the parties have appropriately recognized this limitation of their agreement. With this understanding, we believe that the Stipulation provides a reasonable resolution of this proceeding.

Accordingly, we

¹The stipulation states that "any deferred asset recorded on MPS's books prior to the Commission's decision allowing the use of available value will be eliminated on March 1, 2000 by offsetting available value". We assume that the reference to "any deferred asset" here refers to those assets created as a result of the Stipulation.

O R D E R

1. That the Stipulation filed by the parties on March 26, 1999, and attached hereto, is approved;
2. That the terms of the Stipulation are incorporated as part of this Order by reference;
3. That Maine Public Service Company is authorized to defer on its books of its accounts certain costs and foregone revenues which are set forth in the Stipulation;
4. That no rate change will occur as part of this year's Rate Stability Plan filing; and
5. That the updated marginal cost and short-term energy only rates filed by Maine Public Service Company on November 13, 1998 are hereby approved.

Dated at Augusta, Maine this 6th day of April, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of

review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.